

Bond 82286384

IN THE United States District
Court, Northern District of
California

FILED
2013 APR 11 P 2:10
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
N.D. OF CALIF.

Lifescan, Inc. and Lifescan Scotland, Ltd.

Plaintiff

vs.

Shasta Technologies, LLC, Instacare Corp., Pharmatech
Solutions, Inc., and Conductive Technologies, Inc.

Defendant

UNDERTAKING ON

☐ Temporary Restraining Order
☒ Preliminary Injunction
☐ Injunction

WHEREAS, by an Order of the above entitled Court made on the 9th day of April, 2013, Plaintiff was required to file an undertaking in the sum of \$ 12,700,000.00 as a condition for a Preliminary Injunction Bond to be in effect restraining and enjoining the above named Defendant from the commission of certain acts as more fully set forth in said Order,

NOW, THEREFORE, we, LIFESCAN, INC. AND LIFESCAN SCOTLAND, LTD., as Principal, and FEDERAL INSURANCE COMPANY, a corporation, organized and existing under the laws of the State of IN and authorized to transact business in the State of California, as Surety, in consideration of the premises and the issuance of said Preliminary Injunction Bond, do hereby jointly and severally undertake to pay all costs and disbursements that may be decreed to the Defendant and such damages not exceeding the amount of Twelve Million Seven Hundred Thousand and 00/100 Dollars (\$ 12,700,000.00),

as the Defendant may sustain by reason of said Preliminary Injunction Bond if the same be wrongful and without sufficient cause.

IN WITNESS WHEREOF, we have each set our hands this 10th day of April, 2013.

FEDERAL INSURANCE COMPANY

By

Jessica Iannotta

Attorney-in-Fact

SURETY ACKNOWLEDGMENT

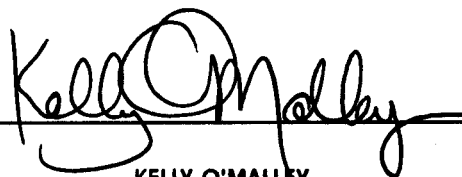
State of New York)

County of New York)

On 10th day of April, 2013 before me, Kelly O'Malley, Notary Public, personally appeared Jessica Iannotta who proved to me on the basis of satisfactory evidence to be the Attorney-in-Fact of Federal Insurance Company whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in her authorized capacity(ies), and that by her signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of New York that the foregoing paragraph is true and correct.

Signature: _____



KELLY O'MALLEY

NOTARY PUBLIC-STATE OF NEW YORK

No. 01OM6267190

My Commission Expires August 13, 2016



**Chubb
Surety**

**POWER
OF
ATTORNEY**

**Federal Insurance Company
Vigilant Insurance Company
Pacific Indemnity Company**

**Attn: Surety Department
15 Mountain View Road
Warren, NJ 07059**

Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint Vivian Carti, Debra A. Deming, Sandra Diaz, Evangelina L. Dominick, Cynthia Farrell, Jessica Iannotta, Annette Leuschner, Robert P. McDonough, Glenn Pelletiere, Sonia Rogers and Valorie Spates of New York, New York

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY have each executed and attested these presents and affixed their corporate seals on this **3rd** day of **November, 2011**.

Kenneth C. Wendel, Assistant Secretary

David B. Norris, Jr., Vice President

STATE OF NEW JERSEY

County of Somerset

ss.

On this **3rd** day of **November, 2011** before me, a Notary Public of New Jersey, personally came Kenneth C. Wendel, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Kenneth C. Wendel, being by me duly sworn, did depose and say that he is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By-Laws of said Companies; and that he signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that he is acquainted with David B. Norris, Jr., and knows him to be Vice President of said Companies; and that the signature of David B. Norris, Jr., subscribed to said Power of Attorney is in the genuine handwriting of David B. Norris, Jr., and was thereto subscribed by authority of said By-Laws and in deponent's presence.

Notarial Seal



**KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2316685
Commission Expires July 14, 2014**

Notary Public

CERTIFICATION

Extract from the By-Laws of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY:

"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Kenneth C. Wendel, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

- (i) the foregoing extract of the By-Laws of the Companies is true and correct,
- (ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; further, Federal and Vigilant are licensed in Puerto Rico and the U.S. Virgin Islands, and Federal is licensed in American Samoa, Guam, and each of the Provinces of Canada except Prince Edward Island; and
- (iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this

10th day of *April*, 2013.



Kenneth C. Wendel, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY Telephone (908) 903- 3493 Fax (908) 903- 3656
e-mail: surety@chubb.com

FEDERAL INSURANCE COMPANY**STATEMENT OF ASSETS, LIABILITIES AND SURPLUS TO POLICYHOLDERS**

Statutory Basis

DECEMBER 31, 2011

(in thousands of dollars)

ASSETS	LIABILITIES AND SURPLUS TO POLICYHOLDERS
Cash and Short Term Investments..... \$ 151,942	Outstanding Losses and Loss Expenses \$ 12,300,432
United States Government, State and Municipal Bonds 10,312,572	Unearned Premiums..... 3,395,082
Other Bonds..... 4,146,378	Ceded Reinsurance Premiums Payable..... 320,332
Stocks 779,367	Provision for Reinsurance 80,930
Other Invested Assets..... 1,924,895	Other Liabilities..... 922,290
TOTAL INVESTMENTS 17,315,154	TOTAL LIABILITIES 17,019,066
Investments in Affiliates:	Special Surplus Funds 222,832
Chubb Investment Holdings, Inc. 3,212,072	Capital Stock..... 20,980
Pacific Indemnity Company..... 2,440,763	Paid-In Surplus..... 3,106,808
Chubb Insurance Investment Holdings Ltd... 1,237,556	Unassigned Funds 10,356,926
Executive Risk Indemnity Inc..... 1,076,901	
CC Canada Holdings Ltd..... 747,660	SURPLUS TO POLICYHOLDERS..... 13,707,546
Great Northern Insurance Company 436,665	
Chubb Insurance Company of Australia Limited 404,315	
Chubb European Investment Holdings SLP .. 251,756	
Vigilant Insurance Company..... 233,604	
Other Affiliates 409,535	
Premiums Receivable 1,470,010	TOTAL LIABILITIES AND SURPLUS
Other Assets 1,490,621	TO POLICYHOLDERS..... \$ 30,726,612
TOTAL ADMITTED ASSETS \$ 30,726,612	

Investments are valued in accordance with requirements of the National Association of Insurance Commissioners.
Investments with a carrying value of \$431,309,571 are deposited with government authorities as required by law.

State, County & City of New York, — ss:

Yvonne Baker, Assistant Secretary

of the Federal Insurance Company

being duly sworn, deposes and says that the foregoing Statement of Assets, Liabilities and Surplus to Policyholders of said Federal Insurance Company on December 31, 2011 is true and correct and is a true abstract of the Annual Statement of said Company as filed with the Secretary of the Treasury of the United States for the 12 months ending December 31, 2011.

Subscribed and sworn to before me
this March 31, 2012

Dorothy Baker
Notary Public

DOROTHY M. BAKER
Notary Public, State of New York
No. 31-4904994
Qualified in New York County
Commission Expires Sept. 14, 2013

Yvonne Baker
Assistant Secretary